IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP No.18908 of 2006
Date of decision: 9.7.2007

Pepsu Road Transport Corporation and another.

-----Petitioners

Vs.

Presiding Officer, Labour Court and another.

-----Respondents

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. S.K. Garg, Advocate
for the petitioners.

Ms Sonia G. Singh, Advocate
for respondents.

ORDER:

This petition challenges award of the Labour Court, directing the petitioners to release the retrial benefits to respondent No.2-workman by treating his period of absence as period of leave without pay.

Dispute was referred to the Labour Court at the instance of the workman. Claim of the workman was that he was appointed as Driver with the petitioners in the year 1978 and his services were terminated on 15.4.1999 without holding any proper inquiry.

Management took the plea that the workman absented from 28.5.1998 and after ex-parte inquiry, his services were terminated vide order dated 15.4.1999.

The Labour Court held that the allegation of willful absence of the workman after 28.5.1998 was duly proved, but since he was suffering from a serious ailment and had already attained the age of retirement, he was entitled to reinstatement without any backwages. As a result of reinstatement, he will be entitled to retirement benefits as per rules.

Learned counsel for the petitioners submitted that once the workman was willfully absent, the Labour Court was not justified in holding that the workman was entitled to any benefit.

Learned counsel for the respondent-workman, however, submitted that the workman had already rendered 21 years of service and had become eligible for retirement benefits. Reliance was placed on a judgment of the Hon'ble Supreme Court in ***Hussaini v. The Hon. The Chief Justice of High Court of Judicature at Allahabad and others*** AIR 1985 SC 75 and a judgment of this Court in ***Ex.Const. Rambir Singh No.323/SPT v. The State of Haryana and others*** 1999 (1) RSJ 527.

Even though the reasoning given by the Labour Court for holding that the workman was entitled to reinstatement, may be open to doubt, but even without going into the said question, we find that the workman had already rendered 21 years of service and was suffering from serious ailment, on account of which, he was absented. In these

circumstances, the view taken by the Labour Court that instead of dismissal from service, he may be taken to have retired and paid retirement benefits as per rules, cannot be held to be suffering from any patent error so as to call for interference of this Court under Article 226 of the Constitution of India.

The petition is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

July 09, 2007 **(AJAI LAMBA)**
ashwani **JUDGE**